

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

PHILLIP LEE; PAMELA WHITE;
PATRICIA VANDUSEN; RONALD
ALLIX; and RANDY WELCH,
individually and on behalf of all others
similarly situated,

Case No. 22-12153

Hon. Shalina D. Kumar

Magistrate Judge David R. Grand

Plaintiffs,

vs.

BELVOIR MEDIA GROUP, LLC,

Defendant.

/

**DEFENDANT'S EX PARTE MOTION TO
ENLARGE REPLY BRIEF PAGE LIMIT**

Defendant Belvoir Media Group, LLC (“Defendant”), moves for a two page enlargement of its Reply Brief in Support of its Motion to Dismiss (for a total of eleven pages) as follows:

1. Defendant’s Reply Brief in support of its Motion to Dismiss Plaintiffs’ First Amended Complaint [ECF 18] must be filed with this Court on or before Monday, March 13, 2023.

2. On March 6, 2023, Plaintiffs filed a Corrected Motion for Leave to File a Notice of Supplemental Authority [ECF 21]. Plaintiffs’ Motion for Leave concerns a Report and Recommendation issued by Magistrate Judge Kimberly G. Altman in *Briscoe v. NTVB Media, Inc.*, which has not been adopted by U.S. District

Court Judge F. Kay Behm, and which is currently open to objection by defendant in that case.

3. On March 6, 2023, Chief Judge Hala Jarbou of the United States District Court for the Western District of Michigan issued an Opinion, Order and Judgment in *Bozung v. Christianbook, LLC*, Case No. 1:22-cv-304 (Attached as **Exhibit A**). In *Bozung*, Judge Jarbou addressed nearly identical issues as those raised in this matter concerning Michigan's Preservation of Personal Privacy Act, disagreed with the Report and Recommendation that is the subject of Plaintiffs' pending Motion for Leave, followed Judge Stephen Murphy's decision in *Nashel v. New York Times*, No. 2:22-cv-10655, 2022 WL 6775657 (E.D. Mich. Oct. 11, 2022), and granted the defendant's motion to dismiss the plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6).

4. On December 22, 2022, the Court entered a Stipulated Order Extending Deadlines, Setting Briefing Schedule and Enlarging Page Limits [ECF 17]. This Stipulated Order granted Defendant nine pages for its Reply Brief, but it was entered prior to the issuance of the *Bozung* decision.

5. The March 6, 2023 *Bozung* decision by the Chief Judge of the Western District is a significant ruling. In order to fully address the very recent *Bozung* decision, a modest enlargement of Defendant's Reply Brief of two pages is warranted.

6. Defendant will make a good faith effort to condense its Reply Brief as much as is practicable.

7. On March 7, 2023, Defendant explained the nature and basis of this Motion to Plaintiffs and sought concurrence, but such concurrence was denied.

WHEREFORE, Defendant respectfully requests that this Court grant its *ex parte* Motion and enter an order enlarging the page limit for its Reply Brief by two pages (for a total Reply Brief length of eleven pages).

Respectfully Submitted,

Dated: March 7, 2023

s/Carol G. Schley

Peter B. Kupelian (P31812)
Carol G. Schley (P51301)
Clark Hill PLC
151 S. Old Woodward Ave., Ste. 200
Birmingham, MI 48226
(248) 642-9692
pkupelian@clarkhill.com
cschley@clarkhill.com

DENTONS US LLP
Kristen C. Rodriguez
Deborah H. Renner
233 S. Wacker Drive, Suite 5900
Chicago, IL 60606-6404
Tel: (312) 876-8000
kristen.rodriguez@dentons.com
deborah.renner@dentons.com

DENTONS DAVIS BROWN, P.C.
Katelynn T. McCollough
Davis Brown Tower
215 10th Street, Suite 1300
Des Moines, IA 50309-3993
Tel: (515) 246-7831
katelynn.mccollough@dentons.com

Counsel for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

PHILLIP LEE; PAMELA WHITE;
PATRICIA VANDUSEN; RONALD
ALLIX; and RANDY WELCH,
individually and on behalf of all others
similarly situated,

Case No. 22-12153
Hon. Shalina D. Kumar
Magistrate Judge David R. Grand

Plaintiffs,
vs.
BELVOIR MEDIA GROUP, LLC,
Defendant.

**DEFENDANT'S BRIEF IN SUPPORT OF *EX PARTE* MOTION TO
ENLARGE REPLY BRIEF PAGE LIMIT**

ISSUE PRESENTED

Whether the Court should enlarge the page limit for Defendant's Reply Brief in support of its Motion to Dismiss Plaintiff's First Amended Complaint by two pages (for a total of eleven pages).

Defendant Responds: Yes

CONTROLLING OR MOST APPROPRIATE AUTHORITY

LR 7.1(d)(3)

Kimble v. Hosو, 439 F.3d 331, 336 (6th Cir. 2006)

LAW AND ARGUMENT

For the reasons addressed in its Motion, Defendant requests an additional two pages for its Reply Brief in Support of its Motion to Dismiss Plaintiffs' First Amended Complaint. This modest enlargement is justified so that Defendant may address the arguments raised in Plaintiffs' Response Brief, the arguments raised in Plaintiffs' Motion for Leave, and the March 6, 2023 Opinion, Order and Judgment in *Bozung v. Christianbook, LLC*, Case No. 1:22-cv-304 (Attached as **Exhibit A**).

The decision to extend page limitations is within the Court's discretion. *Kimble v. Hosو*, 439 F.3d 331, 336 (6th Cir. 2006). Defendant will also make a good faith effort to condense its Reply Brief to make it as succinct as practicable.

For these reasons and those set forth in the accompanying Motion, Defendant respectfully requests that the Court grant Defendant's *Ex Parte* Motion to Enlarge Reply Brief Page Limit by two pages, for a total of eleven pages.

Dated: March 7, 2023

Respectfully submitted:

s/Carol G. Schley

Peter B. Kupelian (P31812)
Carol G. Schley (P51301)
Clark Hill PLC
151 S. Old Woodward Ave., Ste. 200
Birmingham, MI 48226
(248) 642-9692
pkupelian@clarkhill.com
cschley@clarkhill.com

DENTONS US LLP
Kristen C. Rodriguez
Deborah H. Renner
233 S. Wacker Drive, Suite 5900
Chicago, IL 60606-6404
Tel: (312) 876-8000
kristen.rodriguez@dentons.com
deborah.renner@dentons.com

DENTONS DAVIS BROWN, P.C.
Katelynn T. McCollough
Davis Brown Tower
215 10th Street, Suite 1300
Des Moines, IA 50309-3993
Tel: (515) 246-7831
katelynn.mccollough@dentons.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I certify that on March 7, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

/s/Carol G. Schley _____

CLARK HILL PLC
151 S. Old Woodward Ave., Ste. 200
Birmingham, MI 48009
(248) 530-6338
cscley@clarkhill.com
(P51301)